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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,243	10/16/2001	Peter F. Reile	FSHR042/00US	2235

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EXAMINER

RADA, ALEX P

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SN

Office Action Summary	Application No. 09/977,243	Applicant(s) REILE, PETER F.	
	Examiner Alex P. Rada	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 21-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/6/05</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

In response to the amendment filed January 6, 2005, in which the applicant cancels claims 20 and 42, amends claims 1-2, 10-11, 19, 21-24, 26, and 31-32, and claims 1-19 and 21-41 are pending in this office action.

Oath/Declaration

1. In view of the papers filed February 3, 2005, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding Jeffrey J. Miller as a co-inventor.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 1-19, 21-32, 35-37, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hailey (US 2001/0038999) in view of Microsoft Word 2000.

4. Hailey discloses the following:

A display and a toolbar menu on the display as recited in claims 1 and 10.

A memory (12) for storing the activity displayed on the hand-held electronic toy as recited in claim 2.

The memory having a removable read-only memory cartridge (19) as recited in claims 3 and 12.

A communication device (18) configured to receive data from a second source (18 and paragraph 34) as recited in claims 4 and 13.

The second source having a read only memory cartridge (18 and paragraph 34) as recited in claims 5 and 14.

The second source having an Internet site (18 and paragraph 34) as recited in claims 6 and 15.

The second source having a second hand-held electronic device (18 and paragraph 34) as recited in claims 7 and 16.

A stylus (25) that enables a user to interact with the display (summary and figure 3) as recited in claims 8 and 17.

The stylus (25) allows the user to select the interactive tools and the activities displayed on the display (summary and figure 3) as recited in claims 9 and 18.

A memory for storing at least one of the first activity and the second activity (figure 4 and paragraph 36) as recited in claim 11.

Receiving a selection of one of a plurality of activities for display on a display of a hand-held electronic toy (figure 3 and 4), the plurality of activities having at least one drawing activity (figures 3-4), receiving a selection of an interactive tool (figures 3-4), the interactive tool being associated with a selectable icon in a toolbar menu (figures 3-4), and displaying indicia of a characteristic of a selected interactive tool, the characteristics of the selected interactive tool including a drawing characteristic when a selected activity of the plurality of activities having at least one drawing activity (summary and figures 3-4) as recited in claim 19.

The plurality of activities having a first activity and a second activity, the first activity being a drawing activity, displaying a first indicia associated with the drawing activity, and displaying a second indicia associated with the second activity, the first indicia being different than the second indicia (figures 3-4 and paragraphs 35-38) as recited in claim 21.

Retrieving a first activity application (50 in figure 4) from a memory (12) for display on a hand-held electronic toy, the first activity being a drawing activity application (figures 3-4), determining a first characteristic of an interactive tool associated with an icon on a toolbar menus disposed on the hand held electronic toy (figures 3-4), the first characteristic being associated with the retrieved drawing activity application (figure 4), retrieving a second activity application from a memory for display on the hand-held electronic toy, in which the examiner interprets the animation gallery to be an equivalent to the retrieving a second activity application from a memory for display on the hand-held

electronic toy (50 in figure 4), and determining a second characteristic of the interactive tool associated with icon on the toolbar menu disposed on the hand-held electronic toy, in which the examiner interprets the animation of the drawing and the disabling of the icons during animation sequence to be an equivalent to determining a second characteristic of the interactive tool associated with icon on the toolbar menu disposed on the hand-held electronic toy (figures 3-4, 18, and paragraph 44), the second characteristic being associated with the retrieved second activity application (summary and paragraphs 35-38 and 43-44) as recited in claim 22.

Determining contents of a second menu of tool options that is associated with the selected interactive tool (figures 3-4 and paragraphs 35-38) as recited in claim 24.

Retrieving an activity application from a removable cartridge (19) as recited in claim 25.

Displaying a first selectable item, in which the examiner interprets the create new sketch and selecting one of the icons (27) to be equivalent to a first selectable item (50) on the hand-held electronic toy (figures 3-4), the first selectable item being associated with one of a plurality of drawing activities capable of being displayed on the hand-held electronic toy (figures 3-4), displaying a second selectable item (50) on the hand-held electronic toy (figures 3-4 and paragraphs 35-38), the second selectable item being associated with an interactive tool, the interactive tool having a characteristic in a first state (figures 3-4) as recited in claim 26

The first set of interactive tools includes the same interactive tools as the second set of interactive tools (paragraphs 35-38 and figure 3-4) as recited in claim 30.

A first memory (12), the first memory including code associated with first drawing activity (paragraph 34), a tool bar menu (figures 3-4) having a plurality of interactive tools, at least one of the plurality of interactive tools being associated with one of a first characteristic and a second characteristic (figures 3-4), the first characteristic being associated with the first drawing activity (figures 3-4) and a port (paragraph 34) configured to receive a second memory, the second memory including code associated with a second activity and having data associated with the at least one of a plurality of interactive tools, the second characteristic being associated with the second drawing activity, in which the examiner interprets the USB port capable of receiving flash cards to be an equivalent to the second memory including code associated with a second activity and having data associated with the at least one of a plurality of interactive tools, the second characteristic being associated with the second drawing activity (summary and paragraphs 34-44) as recited in claim 31.

A touch-screen display (paragraph 30) and a printed toolbar on the touch-screen (paragraph 32-33 and figure 3), the printed toolbar having a plurality of icons (figures 3-4), each of the plurality of icons associated with at least one drawing tool (summary and figures 3-4) as recited in claim 32.

The at least one drawing tool having a primary shapes tool (figure 3), the primary shapes tool associated with a plurality of secondary shapes tools, the

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primary shapes tool configures to allow a user to select one of the plurality of secondary shapes tools, each of the plurality of secondary shapes tools configured to allow a user to render a corresponding one of a plurality of predetermined shapes on the touch-screen display using a drawing stylus (figure 3 and paragraph 35) as recited in claim 35.

The hand-held electronic toy is configured to display a pop-up menu on the touch-screen display, the pop-menu having a graphical representation of the plurality of secondary shapes tools to the user (figure 3 and paragraph 35) as recited in claim 36.

The plurality of secondary shapes tools having a square, circle, and triangle tool, each of the shapes tool configured to render the corresponding one of the predetermined shapes on the touch-screen display in outline form (Figure 3 and paragraph 35) as recited in claim 37.

Hainey does not expressly disclose the following:

The toolbar menu including a plurality of interactive tools, at least one of the plurality of interactive tools enabling the selection of one of a plurality of activities, and at least another one of the plurality of interactive tools enabling interaction with a selected one of the plurality of activities as recited in claim 1.

The interactive tools having a predetermined characteristics, each of the plurality of interactive tools being associated with one of the selectable icons, the predetermined characteristic of at least one of the plurality of the interactive tools including a first characteristic associated with the drawing activity and a second characteristic associated with the second activity as recited in claim 10.

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Determining a state of availability for the interactive tool as recited in claims 19 and 23.

Determining whether to modify a state of the characteristic of the interactive tool from the first state associated with the drawing activity to a second state as recited in claim 26.

The characteristic is an availability of the interactive tool (figures 3-4) and is a menu of contents of the interactive tool, in which the examiner interprets the custom button to be an equivalent to the availability of the interactive tool and is a menu of contents of the interactive tool (figures 3-4) as recited in claims 27 and 28.

The first set of interactive tools having different interactive tools than the second set of interactive tools, in which the examiner interprets the custom button to be an equivalent to the first set of interactive tools having different interactive tools than the second set of interactive tools as recited in claim 29.

When operational, each of the plurality of icons being one of activated and inactivated based on the activity selection as recited in claim 32.

Microsoft Word 2000 teaches the following:

The toolbar menu including a plurality of interactive tools (figure 1), at least one of the plurality of interactive tools enabling the selection of one of a plurality of activities, and at least another one of the plurality of interactive tools enabling interaction with a selected one of the plurality of activities, in which the examiner interprets the custom button to be an equivalent to the at least one of the plurality of interactive tools enabling the selection of one of a plurality of

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activities, and at least another one of the plurality of interactive tools enabling interaction with a selected one of the plurality of activities (see attached figure 1) as recited in claim 1.

The interactive tools having a predetermined characteristics (application), each of the plurality of interactive tools being associated with one of the selectable icons (figure 1), the predetermined characteristic of at least one of the plurality of the interactive tools including a first characteristic associated with the drawing activity and a second characteristic associated (application) with the second activity, in which the examiner interprets the toolbar and the custom button to be an equivalent to the predetermined characteristic of at least one of the plurality of the interactive tools including a first characteristic associated with the drawing activity and a second characteristic associated (application) with the second activity (see attached figure 1) as recited in claim 10.

Determining a state of availability for the interactive tool, in which the examiner interprets the, in which the examiner interprets the customize button in the tool bar of figure 1 to be an equivalent to determining a state of availability for the interactive tool as recited in claims 19 and 23.

Determining whether to modify a state of the characteristic of the interactive tool from the first state associated with the drawing activity to a second state, in which the examiner interprets the toolbar and the custom button to be an equivalent to determining whether to modify a state of the characteristic

of the interactive tool from the first state associated with the drawing activity to a second state as recited in claim 26.

When operational, each of the plurality of icons being one of activated and inactivated based on the activity selection, in which the examiner interprets the toolbar and custom button to be an equivalent to each of the plurality of icons being one of activated and inactivated based on the activity selection as recited in claim 32.

By having a plurality of interactive tools having predetermined characteristics and determining a state of availability, one of ordinary skill in the art would provide users the ability to use specific instruments needed to accomplish a given task.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Hailey to include a toolbar menu including a plurality of interactive tools, at least one of the plurality of interactive tools enabling the selection of one of a plurality of activities, and at least another one of the plurality of interactive tools enabling interaction with a selected one of the plurality of activities as taught by Microsoft Word 2000 to provide users the ability to use specific instruments needed to accomplish a given task.

5. Claims 33-34 and 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hailey (US 2001/0038999) in view of Microsoft Word 2000 as applied to claims 32 and 35 above, and further in view of Microsoft Paint (copyright 1981-1998 version 4).
6. Hailey in view of Microsoft Word 2000 discloses the claimed invention as discussed above except for the following:

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The at least one drawing tool having a straight line tool configured to allow a user to render lines on the touch-screen display using a drawing stylus at a user-selectable line thickness as recited in claim 33.

The hand-held electronic toy is configured to display a menu on the display, the menu having a graphical representation of a plurality of line thickness to the user as recited in claims 34.

The plurality of secondary shapes tools having a polygon tool, the polygon tool configured to render the corresponding one of the predetermine shapes on the touch-screen display by connecting a plurality of predetermined points with a plurality of straight lines as recited in claim 38.

The at least one drawing tool having a primary special effects tool, the primary special effects tool associated with a plurality of secondary special effects tools, the plurality of secondary effects tools configured to alter an image rendered on the display as recited in claim 39.

The display having a menu having a graphical representation of a plurality of secondary special effects tools to the user as recited in claim 40.

The plurality of secondary special effects tools having a reverse-out tool, a rotate tool, and a mirror tool as recited in claim 41.

Microsoft Paint teaches the following:

The at least one drawing tool having a straight line tool configured to allow a user to render lines on the touch-screen display using a drawing stylus at a user-selectable line thickness (see figure on page 11) as recited in claim 33.

The hand-held electronic toy is configured to display a menu on the display, the menu having a graphical representation of a plurality of line thickness to the user (see figure on page 11) as recited in claims 34.

The at least one drawing tool having a primary special effects tool, the primary special effects tool associated with a plurality of secondary special effects tools, the plurality of secondary effects tools configured to alter an image rendered on the display (see figure on page 13) as recited in claim 39.

The display having a menu having a graphical representation of a plurality of secondary special effects tools to the user (see figure on page 13) as recited in claim 40.

The plurality of secondary special effects tools includes a reverse-out tool, a rotate tool, and a mirror tool (see figure on page 13) as recited in claim 41.

The plurality of secondary shapes tools having a polygon tool, the polygon tool configured to render the corresponding one of the predetermine shapes on the touch-screen display by connecting a plurality of predetermined points with a plurality of straight lines (see drawing on page 12) as recited in claim 38. By having a straight-line tool, a plurality of specialty effects tools, and a polygon tool, one of ordinary skill in the art would provide an easy way for a user to create and manipulate different shapes and figures with undiluted illustrations.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Hailey to include straight line tool, a plurality of different effects tools, and a polygon tool as taught by Microsoft

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Paint to provide an easy way for a user to create and manipulate different shapes and figures with undiluted illustrations.

Response to Arguments

7. Applicant's arguments with respect to claims 1-19 and 21-41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 571-272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's ~~acting~~
^{Primary}~~supervisor~~, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the
organization where this application or proceeding is assigned is 703-872-9306.

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JESSICA HARRISON
PRIMARY EXAMINER